



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-BI59**

#### **Atlantic Highly Migratory Species; Amendment 14 to the 2006 Consolidated**

#### **Atlantic Highly Migratory Species Fishery Management Plan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of agency decision.

**SUMMARY:** NMFS announces the approval of Amendment 14 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). Amendment 14 revises the mechanism or “framework” used in establishing quotas and related management measures for Atlantic shark fisheries. The revised framework will modify the procedures followed in establishing the acceptable biological catch (ABC) and annual catch limits (ACLs) for Atlantic sharks and the process used to account for carryover or underharvests of quotas. It will also allow the option to phase-in ABC control rules and to adopt multi-year overfishing status determination criteria in some circumstances. Amendment 14 does not make changes to the current quotas or other management measures. Any operational changes to fishery management measures as a result of Amendment 14 would be considered in future rulemakings, as appropriate.

**DATES:** Amendment 14 was approved on January 18, 2023.

**ADDRESSES:** Electronic copies of Amendment 14 to the 2006 Consolidated HMS FMP may be obtained on the internet at <https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management>.

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**SUPPLEMENTARY INFORMATION:** Atlantic HMS fisheries (tunas, billfish, swordfish, and sharks) are managed under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS FMP (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635.

The Magnuson-Stevens Act requires that any FMP or FMP amendment be consistent with 10 National Standards (NS). Specifically, NS1 requires “conservation and management measure shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.” In 2016, NMFS revised the NS1 guidelines to improve, streamline, and enhance their utility for managers and the public to facilitate compliance with the requirements of the Magnuson-Stevens Act and provide management flexibility in doing so (81 FR 71858, October 18, 2016). The revised NS1 guidelines have provided NMFS the opportunity to increase management flexibility to ensure scientific uncertainty and variability in shark harvests are accurately accounted for.

Amendment 14 modifies the mechanism or “framework” used to establish ABC and ACLs for Atlantic shark stocks and management complexes. The new framework incorporates several of the management options in the 2016 revised NS1 guidelines that allow for more flexibility to respond to current conditions in Atlantic shark fisheries. Specifically, Amendment 14 will establish the management measures described below.

*ABC Control Rule:* Implement a general approach to the development of ABC control rules for Atlantic shark stocks and management complexes. The tiered ABC

control rule will categorize stocks or management complexes into appropriate tiers, taking into account the stock status of the species, data availability, and data uncertainty in the development of the ABCs. Because of the technical complexity in determining the appropriate level of scientific uncertainty for all stocks across all the different methodologies used in past shark stock assessments, NOAA Fisheries may phase-in the ABC control rule changes for some shark stocks over time.

*Phase-In ABC Control Rule:* Phase-in ABC control rules to allow NMFS to phase in changes in the ABC over up to a three-year period, as long as overfishing is prevented. A phase-in ABC control rule allows for greater flexibility in setting the ABC following a stock assessment.

*ACL Development:* Actively manage all sector ACLs (commercial and recreational) and establish an ACL for each Atlantic shark management group (*i.e.*, a group of shark species that are combined for quota management purposes), without commercial ACL species linkage considerations. This will help ensure the ACL remains below the ABC and improve accountability and monitoring across all sectors.

*Carry-Over of Underharvested ACL:* Change the carry-over provisions to allow carry-over of unused quota to the next year, only for underharvest of commercial quotas (landings only) under certain conditions (*i.e.*, the stock is not overfished and not experiencing overfishing), as long as the overall ACL remains below the ABC. Carry-over allows for fuller utilization of available commercial ACLs, helping to achieve optimum yield.

*Multi-Year Overfishing Status Determination Criteria:* Apply multi-year overfishing status determination criteria to determine if a stock is undergoing overfishing. When an assessment is conducted, NMFS would use a completed stock assessment to determine overfishing status, and outside of an assessment year, NMFS may compare a

three-year rolling average of catch to the overfishing limit to determine the overfishing status.

NMFS published a Notice of Availability for draft Amendment 14 on September 24, 2020 (85 FR 60132). The comment period closed on December 31, 2020, and NMFS received 10 written comments. NMFS presented information on draft Amendment 14 at three public webinars and the HMS Advisory Panel meeting in December 2020. Additional oral comments were collected at the Gulf of Mexico and South Atlantic Fishery Management Council meetings in November and December 2020, respectively.

In response to commenters' requests for more information, NMFS published a supplement to draft Amendment 14 on January 24, 2022 (87 FR 3504). The comment period closed on March 10, 2022, and details were presented at one public webinar and at the HMS Advisory Panel meeting in February 2022. Eight written comments were received during the public comment period.

All of the comments received on draft Amendment 14 to the 2006 Consolidated HMS FMP and the supplemental document and responses to those comments can be found in final Amendment 14 to the 2006 Consolidated HMS FMP, at <https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management>.

NMFS has determined that Amendment 14 is consistent with the 2006 Consolidated HMS FMP, the Magnuson-Stevens Act, and other applicable law. Amendment 14 establishes the general framework through which specific management measures would later be developed and adopted, therefore there are no implementing regulations associated with this amendment. Any changes to the management and quotas of HMS-managed Atlantic sharks would be considered in future rulemakings.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: January 18, 2023.

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[FR Doc. 2023-01225 Filed: 1/23/2023 8:45 am; Publication Date: 1/24/2023]